

Appln No.: 08/935,717

Amendment Dated: June 25, 2004

Reply to Office Action of March 25, 2004

REMARKS/ARGUMENTS

This is in response to the Office Action mailed March 25, 2004 for the above-captioned application. Reconsideration and further examination are respectfully requested.

Claims 11-36 are pending in this application. Claims 17, 18, 23, 24 and 28-36 were objected to. Claim 31 has been canceled as it was the same as claim 30. Claim 30 has been amended to independent form, incorporating the limitations of claim 11. Accordingly, this claim is now believed to be in form for allowance. Claims 17, 23, 28, and 36 have been amended to refer in the preamble to a "test kit" to be in conformance with the preamble of the independent claim.

Claim 11 stands rejected under the judicially-created doctrine of obviousness-type double patenting over claims 1 and 6-9 of US Patent No. 6,235,241 and claims 1 and 5-6 of US Patent No. 6,451,619. The Examiner states that the claims are not patentably distinct because the patented claims are species of the instantly claimed genus. Applicants enclose an executed terminal disclaimer to overcome this rejection.

The Examiner has also maintained the rejection of claims 11-16, 19-22 and 25-27 under 35 USC § 102(b) as anticipated by Catt et al. (WO 95/13531). This rejection has already been argued extensively in previous papers. However, the Examiner now states (¶ 14) that engaging in a lock and key interaction is not necessarily the same as formation of a lock and key interaction. To address this issue, Applicants have amended claim 11 to make it clear that engagement to form a lock and key interaction is intended. Thus, claim 11 now reads:

 said means for initiation of the reading device engages the assay device in a lock-and-key interaction, thereby forming a lock-and-key interaction between the reading device and the assay device whereby the reading device is initiated in response to and only when said assay device is properly positioned in lock-and-key engagement within said reading device and the lock-and-key interaction is formed.

This being the only argument set forth by the Examiner, Applicants submit that the § 102 rejection should be withdrawn.

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For these reasons, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,

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Page 8 of 8